

STATE OF IOWA  
DEPARTMENT OF COMMERCE  
UTILITIES BOARD

IN RE:  TOUCH AMERICA, INC., AND BUYERS UNITED, INC.	DOCKET NO. WRU-03-5-3468
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**ORDER GRANTING WAIVER**

(Issued March 4, 2003)

On February 5, 2003, Touch America, Inc. (Touch America), and Buyers United, Inc. (Buyers), jointly filed with the Utilities Board (Board) a request for a waiver of 199 IAC 22.23(2) regarding individual customer verification rules for unauthorized changes in telecommunications services. Both Touch America and Buyers are long distance telecommunications providers in Iowa. No objection to the joint request has been filed.

The parties state that they have entered into an asset purchase agreement whereby Buyers agreed to purchase approximately 2,500 Iowa long distance customer accounts from Touch America. The parties state that they intend to serve proper notice upon all of Touch America's customers of Buyers' purchase of Touch America's long distance customer base and that there will not be a change in the rates, terms, and conditions of services provided to Touch America's customers.

To grant the waiver, the Board must find, based upon clear and convincing evidence, that the request meets the four criteria in 199 IAC 1.3. The four criteria are: 1) the application of the rule would cause undue hardship, 2) the waiver would not prejudice the substantial legal rights of any person, 3) the provisions of the rule

are not specifically mandated by statute, and 4) substantially equal protection of public health, safety, and welfare will be afforded by a means other than prescribed by the rule.

The Board finds that a waiver of 199 IAC 22.23(2) should be granted based on the Board's review of the information provide by Touch America and Buyers. The Board finds that it would be an undue hardship for Buyers to obtain approximately 2,500 individual authorization verifications for the change in service providers. The Board also finds that the waiver will not affect the substantial legal rights of any person and that equal protection of the public health, safety, and welfare have been afforded since all of Touch America's customers will receive notice of Buyers' acquisition, will continue to receive service at the same rates and subject to the same terms and conditions, and will be afforded an opportunity to change providers if they choose to do so.

**IT IS THEREFORE ORDERED:**

The joint waiver request filed by Touch America, Inc., and Buyers United, Inc., on February 5, 2003, is granted. The verification requirement of 199 IAC 22.23(2) for unauthorized changes in telecommunications service is waived.

**UTILITIES BOARD**

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper  
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 4<sup>th</sup> day of March, 2003.